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AUTHOR Amsler, Mary
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ABSTRACT

This policy brief explores the charter-school concept, looking specifically at: (1) the development of the charter-school idea; (2) current models of charter schools; (3) issues regarding the development of charter schools, such as district reluctance, teacher concerns, organized opposition, fiscal issues, and admission policies; and (4) progress at the state and federal level in the development of charter schools. Charter schools present an alternative to the public-versus-private education dichotomy in the school-choice debate. They are public schools that deliver public education and use public dollars but are organized by individuals or groups as private nonprofit organizations. The charter-school plan in Minnesota, the first state to legislate charter schools, is described in detail. Action in California, Arizona, Nevada, Utah, Pennsylvania, Connecticut, Massachusetts, Michigan, and Tennessee is also described. A conclusion is that charter schools offer a new vision of educational services and opportunities for parent, teacher, and student empowerment. (LMI)

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Charter Schools

Mary Amsler

The call to improve education through school choice assumes that introducing competition into our current public education system will force schools to either improve or face the prospect of losing students. Advocates of a public school choice system cite **open enrollment**, within and between districts, as the choice option most likely to improve schools. Opponents to a purely public school choice system argue that public schools presently offer little diversity from which to choose. They contend that real competition will be introduced only when **private** schools are added to choices currently available.

One major effort in the search for choice which eclipses the dichotomy of public versus private education is the concept of charter schools. These are public schools delivering public education and using public dollars, but are organized by individuals or groups, not school boards, as private non-profit organizations. They are organized around the concept of a charter or contract between the group who organizes the school, and its sponsor — a designated governing body. The charter informs the sponsor what the educational plan for the school is, what the educational outcomes will be and how they will be measured. In exchange for this agreement of accountability, the school receives autonomy.

This *Policy Brief* explores the charter school concept, looking specifically at: 1) the development of the charter schools idea, 2) current models of charter schools, 3) issues regarding the development and implementation of charter schools, and 4) progress at the state and federal level in the development of charter schools.

The Birth of Charter Schools

The concept of charter schools can be traced back to Ray Budde who described "education by charter" in his 1988 book, *Education by Charter: Restructuring School Districts*. The book put forth a model of a "school-within-a-school" which would involve an educational charter between a group of teachers and their school board. Budde not only spelled out the steps involved in creating a charter, but also described the potential impact it might have on the organization of school districts.

The concept made its way into the educational mainstream when Albert Shanker, President of the American Federation of Teachers (AFT), spoke to the National Press Club in 1988 and presented an adaptation of Budde's vision. Shanker proposed a more literal definition of a "school-within-a-school," depicting a completely autonomous school operating within another school. Six or more teachers would submit a proposal to create a new school using a different approach to teaching children. Both parents and teacher unions would be involved in the development of procedures for school approval. Shanker outlined the need for specific learning objectives measured by performance-based forms of assessment and the necessity to operate a school-within-a-school long enough to make a difference. He argued for voluntary participation on the part of teachers, explaining that resistance to forced change would end any comprehensive reform effort.

Definition of Charter Schools

Since the concept is still new, it is not possible to say definitively what the archetypical charter school is. However, charter schools can be distinguished from regular public schools in a number of ways:

Purpose. Charter schools should provide a truly different alternative

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to schooling than what is already being offered. Charter schools should be designed to result in improved student learning outcomes and may use alternative forms of measuring those outcomes. In Minnesota, they are officially referred to as outcome-based schools because this purpose is central to their existence. Recognizing the different educational needs of students, charter schools focus on adopting innovative teaching methods to meet those needs.

Organizer. Charter schools are not organized by state or local school boards, but by individuals or groups. Groups which could possibly form and operate a charter school include: teachers, parents, non-profit social service agencies, museums, universities, non-profit organizations, and hospitals.

Sponsor. Typically, a group presents its plan for a school to a designated governing body for approval: a state department of education, a local school board, or a special board organized to oversee the charter schools. In many states, proposed legislation includes more than one potential sponsor or a provision that an alternate governing body will handle appeals when a proposal has been denied. This minimizes problems that result when the original sponsor turns down a proposal for a reason other than its quality. A charter is established for a set period of time, usually between three to five years, at the end of which it is either renewed or ended.

Contract. Because their purpose is to be an alternative to existing public schools, and because charter schools are held accountable for their program, a proposal for a charter school must detail the methods of instruction to be used, the forms of assessments, and how the school will comply with state requirements.

Autonomy. In the true spirit of decentralization, charter schools make all their own instructional and administrative decisions. Site-based management eliminates the problems districts encounter as they grapple with giving schools the decision-making responsibilities, while remaining legally liable for decisions made. Legislation usually declares that charter schools are free from all normal district and state regulations to permit innovation.

Accountability. A charter school is a public school accountable to its sponsor, which can revoke or refuse to renew the charter if the school fails to meet its student outcome objectives. If the sponsor is a school district, as Minnesota law declares, then the charter school is accountable to the district, not as a regular school, but as a charter school subject to rules governing charter schools.

Governance. Decision making at a charter school is the responsibility of the school's board of directors or governance council. It is an elected board composed of parents, teachers, staff, and possibly community members. All decisions regarding the school are made on site. This managerial arrangement is designed to empower teachers and parents. The cooperative arrangements between school personnel and parents helps ensure that the focus of decision making is always on meeting students' needs, not the needs of adults.

Funding. Generally, charter schools receive funding directly from the state, as if they were school districts, usually the average amount spent in the state per student. Money for specific student needs, such as special education, is the responsibility of the district in which the student resides.

Admissions. Charter schools can be designated for a specific population of students, such as at-risk students. However, just as other public schools, charter schools cannot choose their students for specific qualities, such as ability or aptitude, nor can they discriminate in other ways.

Charter Schools in Action: The Minnesota Experience

It is not surprising that Minnesota is the first state to legislate charter schools. A post-secondary option allowing students in grades 11 and 12 to finish high school in college was enacted in 1985, foreshadowing the idea that other schools not under school district control could offer public education. By 1988 Minnesota had an interdistrict choice plan in place. Contract schools, set up and operated by non-profit social service agencies, also have been under contract to the Minneapolis School District since the late 1960s.

The Minnesota legislation limits the number of charter schools to eight statewide. A school board may sponsor one or more licensed teachers to operate a charter school. It can be proposed as a new school, an existing school converted to charter status, or a school within an existing school. A letter of intent is generated by the teachers to the prospective sponsor. The letter must include a program description addressing one or more of the six purposes described in the charter schools legislation: 1) to improve individual learning; 2) to increase learning opportunities for students; 3) to use different and innovative teaching methods; 4) to create different and innovative forms of measuring learning outcomes; 5) to

establish new forms of accountability for schools; or 6) to create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site.

The letter must include specific student learning outcomes and how they will be measured; a plan for the management and administration of the school; methods of financial and student accounting; age/grade level of students to be served; types and amounts of insurance coverage; admission policies and procedures; and length of school year. If the Board approves the plan, the local school board can enter into a contract with the charter school.

The schools must comply with the same health and safety standards of a school district. They must be nonsectarian in every aspect of their operation, must not charge tuition, and must comply with the Pupil Fair Dismissal Act. The Department of Education, state auditor, or legislative auditor may conduct financial or compliance audits, just as is done at school districts. Contracts must provide assurance that the charter schools will comply with nondiscrimination laws. Finally, the contracts must indicate the term of the charter, which can be up to three years.

Charter schools are legal entities, organized as either cooperatives or non-profit corporations. These schools are not to be restrained by the statutes and rules that govern local school boards and school districts; they need only comply with those rules that apply to charter schools. Failure to meet stated achievement outcomes, or any other violation of the law results in termination of the contract. The schools must renew their charter contracts to continue operating after their initial terms are over.

A temporary board of directors must be specified by the charter organizers to write the contract, hire personnel, and write the by-laws which govern the election of a permanent board of directors. The permanent board is elected by the parents and staff at the school, with the board majority being teachers. Responsibilities of the board encompass all aspects of managing: contracting of services, budgeting, operations, hiring and firing personnel, and of course, curriculum.

Admission of students in charter schools can be limited to a specific age or grade level or to a specific student population. Charter schools can also limit students to those who live in a certain specific geographic area as long as the school reflects the racial and ethnic diversity of that area.

Transportation of students must be handled in the same manner as it has been in the Minnesota open enrollment program. The district in which the charter school is located is responsible for the transportation of students who reside within its borders and the transport of students residing outside the district from its border to the charter school.

Teachers wishing to teach in a charter school must be granted a leave of absence from the school district for the period of time requested. Teachers taking a leave of absence from the district will continue to aggregate benefits in the teachers' retirement association by paying the employer and employee contributions during the leave of absence.

As of Fall, 1992, three schools have been granted charter status: a K-3 previously private Montessori school, an alternative urban high school for ages 13-19 dropouts, and a K-12 school which emphasizes reading outcomes, foreign languages and integrated subject classes. Educators and policymakers will be watching these schools closely in order to understand why they succeed or fail to meet their stated student outcomes.

Policy Concerns

Those who have been involved in designing legislation or implementing charter schools know that charter schools have been far from trouble free. It is not surprising that a number of both policy and practical concerns have been raised in the process.

District Reluctance. Districts are reluctant to approve charter schools for mainstream students. They have nothing to gain, and money and students to lose if charter schools are approved. They are also reluctant to take the money and students out of other school districts by sponsoring schools outside of their boundaries.

Many policymakers believe that the sponsorship issue will remain an obstacle to the successful development of charter schools if it is not rethought. Either sponsorship incentives must be provided to districts, or some other sponsoring agent should be appointed. A few states have built alternative sponsors into their legislation to avoid this problem, such as a state board of education or an independent board created to oversee these schools.

Teacher Concerns. It's too early to tell how teachers will be affected by charter schools. However, their experiences thus far are revealing. Plans to develop a charter school can be met with resentment from other faculty and administration who may feel abandoned, left behind in a rejected school system. In existing schools considering a charter proposal, faculty can become sharply divided over the benefits

and risks of a specific proposal or even the merits of attaining charter status.

It is not clear what will happen to teacher salaries in the charter schools. They may be lowered to offset lower overall funds and start-up costs. The question has been raised that if the school can lower non-instructional costs, will teachers be able to increase their pay? Under a school organized as a non-profit enterprise this would not be possible. However, there is some discussion about other ways in which teachers could organize, such as a professional partnership that would contract with the charter school.

A final concern involves job security. Minnesota legislation, for example, gives teachers the right to receive a leave of absence. If teachers should choose to return at a later date, others within the district will potentially be laid off. Similarly, if charter schools take enough students from an existing district, recently hired staff will lose jobs. It has been suggested, however, that layoffs may be minimal, depending on the rate of natural attrition of teachers within a district.

Uncertainties aside, few other avenues in public education offer teachers the kind of empowerment and professional opportunities that charter schools will. The fact that teachers would be willing to involve themselves in these schools with many unknowns, indicates how much they desire alternatives to the current structure of schools.

Organized Opposition. Teacher unions have provided the strongest opposition. They have been successful in lobbying efforts to restrict formation of a school to only certified teachers. Charter schools are threatening to teacher organizations which have long depended on the structure of the public school system. When teachers are willing to work for less pay in a charter school, unions bargaining efforts are thwarted. But unions insist that collective bargaining is not their major concern. Union officials state their main objection to charter schools is the idea of public money going to what they believe are actually private schools.

Fiscal Issues. Opponents argue that because schools will have to contract for their own services, they will lose the "economies of scale" that favor school districts. Small schools may find it especially difficult. On the other hand, the schools will be freed of the public bidding process and other regulations and might be able to negotiate more cost effective agreements. They are also free to employ certain staff employees part-time or develop other arrangements to meet their needs.

Admission Policies. Minnesota's charter school admission policy states that all students who submit a timely application must be admitted. There can be no selection based on student characteristics. However, schools may limit admission to students with an affinity or aptitude for a teaching method, learning philosophy, or subject emphasis. The words "affinity" and "aptitude" seem to contradict the notion of limiting students on the basis of ability.

Another related issue is achieving racial balance, which could be limited in schools with programs that attract a racially homogeneous student body. Supporters state that sponsors will anticipate these problems and develop plans to seek out other students to increase diversity. But charter schools are not magnet schools. Their purpose is not to ensure racial integration, but to provide choices in public education.

Charter Legislation in Other States

Other states besides Minnesota have begun to seriously consider the adoption of charter schools. Only California has actually authorized teachers to create these independently operated public schools. But many state legislators are beginning to view charter schools as a solution to the issue of growing public interest in vouchers. Instead of public dollars going to private schools, the money can go for the support of truly different public institutions governed by individual charters. The following are brief descriptions of such initiatives.

In the Far West Region

California. Governor Wilson signed into law the Charter Schools Act in September, 1992. During the last year, legislators, countering the threat of a private school voucher initiative, to be presented to voters in 1994, introduced two separate charter school bills. Although the bills presented different views of charter schools, they were alike in several ways. Both bills, unlike Minnesota's program, prohibited private schools from converting to public schools. Both specified that student outcome measures would be performance-based. The two bills called for schools to achieve a racial and ethnic balance reflecting the composition of the district. They also contained an appeal process for schools denied a charter. Both proposals designated the lifespan of a charter to be five years.

Senate Bill 1448, sponsored by Senator Gary Hart, was the measure signed into law. Under this bill a total of 100 charter schools can be created, no more than 10 per school district. The process for attaining a charter would begin with an individual or group circulating a petition to establish a school, which

could be cosponsored by a private non-profit agency. The petition would have to be signed by not less than 10 percent of teachers employed by the school district, or not less than 50 percent of the teachers currently employed at one school in the district. The petition would then be submitted to the school district governing board for review. The governing board would hold public hearings, consider parental and employee input, and either grant or deny the charter. Teachers at a charter school would not need to be certified. They would be employees of the school, not the district, and not eligible to participate in collective bargaining agreements. Enrollment would be open to students from outside the district housing the charter school.

Assembly Bill 2585, sponsored by Delaine Eastin, was the competing voucher bill to reach the governor's desk. It took a more conservative approach to the creation of charter schools. For example, this proposal would have created a total of 50 charter schools. Converting existing schools to charter status would have required support of 50 percent of the teachers and parents at a school. A charter proposal would first have to be accepted by the State Superintendent of Instruction. If approved, it would move on to the local school board for approval. Sixty percent of the charters would be granted to low-performing schools. Teachers at charter schools would need to be certified, would be employees of the school district, and would be subject to collective bargaining.

Arizona. Governor Symington's Task Force on Educational Reform released a report of recommendations for school reform in 1991. Included was a list of options that could be implemented to increase educational choices of parents and students. One recommendation was the development of "New Arizona Schools" including magnet, charter, vocational/technological and/or other alternative public schools.

Passage of the recommendations from the Governor's Task Force proved difficult. Late in the 1992 legislative session, efforts were made to simplify the proposed reform package. The New Arizona Schools and education vouchers were among the many pieces removed. At this time, it is unclear whether charter schools will be reintroduced in the 1993 legislative session.

Nevada. Legislators are not discussing charter schools. A public school choice bill (AB 761) was developed in the 1991 session, but never left the Assembly education committee. An interim study was completed in June, 1992, which examined the effects choice would likely have on schools. No recommendations were made about open enrollment as the committee was assured by the State Superintendent of Education that school districts already permit interdistrict and intradistrict open enrollment. The committee concluded that a voucher system would be unrealistic in Nevada.

Utah. Legislators are not currently considering introducing charter schools legislation during the 1993 session. However, four out of 40 school districts in Utah are operating school-within-a-school programs, for subject emphasis. These programs, which are mostly limited to the high school level, are not autonomous, and students take other classes in the regular school.

In Other States

Pennsylvania. Narrowly defeating a voucher bill in 1991, the Legislature is currently co-sponsoring a six-month study of school district governance, equity in funding, and access to educational opportunities. Options, including charter schools, will be examined. The preliminary draft of a charter schools bill will be introduced in Fall, 1992. Among its potential features would be organization of schools by teachers, parents, non-profit agencies, universities, or private schools. Charter schools could operate within other schools or as separate entities.

Connecticut. In 1991, the Legislature adopted a pilot program to encourage innovative educational programs. The districts could apply to the State Board of Education on behalf of a school, to waive any state requirements that were impeding their development of innovative practices. Since no money was attached to this act, response has been limited.

Massachusetts. The chairs of the Senate and House Education committees drafted a comprehensive educational reform bill, HB750, which contains a charter schools component. The State Board of Education would be the sponsoring agent. Proposals would be accepted from not only teachers, but parents, colleges, universities and museums. Private and parochial schools would not be eligible to attain charter status. Schools would not automatically be free of district and state regulations, but could seek waivers from state rules. However, due to disputes over financing, the bill is unlikely to come to a vote in Fall, 1992.

Michigan. Governor Engler proposed a charter schools bill in 1991 which was put into the K-12 appropriations bill and later removed. This year it has been reintroduced in two identical bills within both the House and Senate. The State

Board of Education and the Superintendent of Public Instruction would sponsor not more than one charter school per district. Schools could be organized by a city, village or township, or a charter school non-profit corporation, in addition to other individuals and groups. There is strong opposition to the bills, mainly by educational lobbyists who do not want to see money drained from the existing public school system.

Tennessee. The Legislature passed the Education Improvement Act in the Spring of 1992. This bill included a provision for funding "break-the-mold" schools, pending federal implementation of such schools. Charter schools would qualify for this funding. The act specified that the break-the-mold schools would not be subject to the rules of either the State Board of Education or the local Board of Education, and would be approved by the State Commissioner of Education.

Local Actions

While state legislatures weigh the merits and risks of charter schools, many local education authorities are already implementing changes which combine teacher and parent empowerment, decentralization and other characteristics of the charter schools idea. For example, the Detroit Public Schools have developed their own plan which parallels many of the features of charter schools and is designed to achieve similar results. It is called the Detroit Public Schools Empowerment Plan. Detroit schools under this plan receive 92 percent of their allotted budget, are free from former district rules, contract their own services, and develop their own education programs. In Philadelphia, a charter (school-within-a-school) program has been developed in the high schools to increase student outcomes through the organization of separate academies set up within the larger high schools. Other cities actively developing alternatives include Chicago, Milwaukee, and Baltimore.

Federal Actions

January, 1992 marked the introduction of charter schools legislation to the United States Congress. Senator Durenberger (Minnesota) introduced an amendment to S.2., the Neighborhood School Improvement Act, sponsored by Senator Kennedy (Massachusetts), which would allow states to use a portion of the block grants to establish new public schools and "New American Schools" both of which include charter schools. In the House, Congressman McCurdy (Oklahoma), an advocate of public school choice, has planned a similar amendment to HR 4323, the House counterpart to S.2. There is anticipation of a private school amendment to be offered by conservative republicans in the House as well.

Conclusion

Clearly interest in charter schools is gaining momentum across the country. If adopted in a more than cursory manner, charter schools may offer a new vision of schools and the educational services they deliver, empowerment of parents, students and teachers. However, the enthusiasm over charter schools is as fervent as the opposition to them. They offer an entirely new choice, and with it, entirely new questions for legislatures, boards of education, local school boards, administrators, teachers and parents, to grapple with.

(The information in this Policy Brief *is drawn from a more in-depth white paper entitled, "The Search for Choice in Public Education: The Emergence of Charter Schools" L. Mulholland and M. Amsler available through Far West Laboratory.)*

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Staff

Mary Amsler
Director, Policy Support Services

James N. Johnson
Communications Director

Fredrika Baer
Administrative Assistant

Briefs welcomes your comments and suggestions. For additional information, please contact:

James N. Johnson
Far West Laboratory
730 Harrison Street
San Francisco, CA 94107
(415) 565-3000

FAR WEST LABORATORY
FOR EDUCATIONAL RESEARCH
AND DEVELOPMENT
730 HARRISON STREET
SAN FRANCISCO, CA 94107
(415) 565-3000

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